

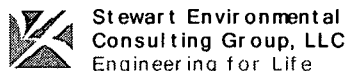
Ackerman, Joyce

From: Dave Stewart <Dave.Stewart@stewartenv.com>
Sent: Tuesday, October 24, 2017 11:34 AM
To: Stovall - CDPHE, Curtis; A.J. Krieger; Fred Diehl; R. Martin Ostholthoff; Todd Bjerkaas
Cc: Richard Dean; JSteeler@sennlaw.com; jason.king@coag.gov; Henderson, Jerry; Edward Smith; randy.perila@state.co.us; Ikenberry, Doug; martin.ogrady@state.co.us; MacGregor - CDPHE, Kelly; Warren Smith; Ackerman, Joyce; Faulk, Libby; Jenkins, Katherine; Fronczak, David; Ketellapper, Victor; Walker - CDPHE, David; Ben Frissell; Piggott, Amelia; O'Reilly, Maureen; Don Hostetter; Alan Linton
Subject: Stratus Redtail Ranch - Phase 2 Report
Attachments: image001.emz

Curt, I have uploaded the Phase 2 report as I mentioned last Friday. It is now on the drop box for your review. We are also sampling the wells this week as well as doing the drum removal planning.

Let me know of any questions.

Dave Stewart



David R Stewart, PhD, PE
President and CEO
Stewart Environmental Consulting Group, LLC
748 Whalers Way, Suite 210
Fort Collins, Colorado 80525
t: 970-226-5500
c: 970-217-6501
f: 970-226-4946
e: dave.stewart@stewartenv.com
w: www.stewartenv.com

From: Stovall - CDPHE, Curtis [<mailto:curtis.stovall@state.co.us>]
Sent: Thursday, October 19, 2017 1:32 PM
To: A.J. Krieger; Fred Diehl; R. Martin Ostholthoff; Todd Bjerkaas
Cc: Richard Dean; Jonathan H. Steeler (JSteeler@sennlaw.com); Jason King; Henderson, Jerry; Edward Smith; Perila - CDPHE, Randy; Ikenberry, Doug; Martin OGrady - CDPHE; MacGregor - CDPHE, Kelly; Warren Smith - CDPHE; Ackerman, Joyce; Faulk, Libby; Katherine Jenkins; Fronczak, David; Ketellapper, Victor; Walker - CDPHE, David; Ben Frissell; Amelia Piggott; Maureen O'Reilly; Dave Stewart; Don Hostetter; Alan Linton
Subject: Fwd: FW: Stratus Redtail Ranch

A.J., Fred, Martin, and Todd:

We understand that Richard Dean reached out to the Town of Erie in recent days regarding a plan to conduct a drum removal project at Neuhauser Landfill (see the email below from Jonathan Steeler, attorney for Stratus Redtail Ranch to Amelia Piggott, attorney for EPA). Also, please see the following attachments:

1. Outline of the plan to remove the drums prepared by Stewart Environmental dated 10/16/17.

2. Email comments from CDPHE on the outline dated 10/18/17.
3. Email comments from EPA on the outline dated 10/18/17.

Stratus is in the process of preparing a written plan for conducting the drum removal project. Stratus has indicated to us that the plan will be completed within a week or so. We will forward the plan to you when we receive it. The plan will be reviewed by both CDPHE and EPA. Also, we look forward to receiving any comments, questions, or concerns that Town of Erie may have on the plan. Stratus expects to commence the drum removal work before Thanksgiving and have it completed by the end of November at the earliest and by mid-December at the latest.

You may recall that CDPHE approved a work plan for conducting a Phase 2 nature and extent investigation of the site back in June 2017. One aspect of the Phase 2 scope of work was to perform a geophysical survey to identify locations of buried drums. The geophysical survey was successful and the results will be included in a Phase 2 results report. As indicated in the email below, Stratus expects to deliver the Phase 2 results report by the end of this week or at the beginning of next week.

CDPHE's community involvement lead (Kelly MacGregor) spoke with your communications folks both yesterday and today. She relayed that CDPHE will host a webpage with information on the planned removal project. CDPHE's community involvement team is also coordinating with EPA and Stratus.

Please call me at (303) 692-2295 or Kelly MacGregor at (303) 692-3304 if you have any questions or comments about this email. We are happy to meet with you to discuss any of this if you'd like.

Thanks,
Curt

----- Forwarded message -----

From: **Ackerman, Joyce** <Ackerman.Joyce@epa.gov>
Date: Tue, Oct 17, 2017 at 4:47 PM
Subject: FW: Stratus Redtail Ranch
To: "Stovall - CDPHE, Curtis" <curtis.stovall@state.co.us>

From: Jonathan H. Steeler [mailto:JSteeler@sennlaw.com]
Sent: Tuesday, October 17, 2017 4:40 PM
To: Piggott, Amelia <Piggott.Amelia@epa.gov>; Ackerman, Joyce <Ackerman.Joyce@epa.gov>; jason.king@coag.gov; 'Kevin Olson' <kolson@us.ibm.com>
Cc: rdean@stratuscompanies.com; 'Dave Stewart' <Dave.Stewart@stewartenv.com>
Subject: Stratus Redtail Ranch

Amelia:

Following up on our call of yesterday, I want to reiterate that Stratus Redtail Ranch, LLC is prepared to undertake a removal action of the drums and liquid within the drums at the Stratus Property. I have attached a conceptual outline of the proposed removal action. If the foregoing is acceptable, we will turn this into a plan that can be attached to an AOC to be entered into between EPA and Stratus. On Friday 10/13, you also requested a copy of the results of the latest round of site investigations. This information will be forwarded to you and Joyce Ackerman under separate cover later this week or at the beginning of next week at the same time that it is submitted to the State of Colorado.

We understand from your email of October 13th, that EPA is concerned about site security and the potential for leakage from the drums. To address security issues, my client is prepared immediately to install fencing around the areas where the investigation has indicated that drums are present. Please advise if EPA would like this for Stratus to proceed with fencing. With regard to the potential for ongoing leakage from the drums, the investigations to date has not revealed any evidence that the drums are leaking. Notwithstanding the foregoing, Stratus believes that the work can be accomplished by the end of November at the earliest and mid-December at the latest. The timing somewhat depends upon our ability to negotiate a removal plan and an acceptable AOC.

You have indicated that due to the lack of available EPA resources, that we simply use the model AOC. Could you please forward the same to me ASAP? While we understand the Agency's desire to use the model, in view of the unwillingness of IBM, clearly a PRP, to participate in any sort of discussion, we request that the AOC provide Stratus with contribution protection, at least with respect to the work being proposed. As an innocent landowner who performed all appropriate inquiry prior to acquisition, I believe my client should be protected against claims by IBM or other PRPs given its willingness to step up and perform the drum removal. We would also like to discuss EPA waiving its ability to recover oversight costs from Stratus. Oversight costs, if any, should be sought from other PRPs who, to date, have done nothing towards site clean-up. Stratus has expended approximately \$500,000 at this site while PRPs have spent nothing.

In addition, we would like to discuss possible assurances from EPA regarding Stratus' innocent landowner status so as to provide my client comfort that it will be treated consistently with its limited involvement at this site. While not a condition of doing the work, we would like to discuss the same as well as any assistance EPA can provide with regard to other PRPs. These discussions can certainly be done after the drum removal AOC is finalized and the removal effort is completed. As I indicated in our telephone call, on Wednesday of last week, I was advised by counsel for IBM that at this time IBM had no interest in participating in any further discussions regarding the site. Accordingly, It is likely that my client will commence litigation against IBM in the near term. I have copied counsel for IBM with this email and if the foregoing statement is an incorrect characterization of IBM's position, I am sure counsel will correct that position.

I have copied Jason King with this email and I assume he will provide copies to the various folks at CDPHE. My client will be sharing this email with the Town of Erie as well. We believe that it is important that EPA, the State and the Town are all on the same page during the removal action.

Thank you for your efforts. I look forward to hearing from you regarding a path forward. Jon

Jonathan H. Steeler
Senn Visciano Canges P.C.
1700 Lincoln Street, Suite 4300
Denver, CO 80203
Direct: (303) 291-4039
Phone: (303) 298-1122
Cellular: (303) 349-4220
Fax: (303) 296-9101
JSteeler@sennlaw.com
www.sennlaw.com

SVC | SENN VISCIANO CANGES P.C.

EMAIL NOTICE AND DISCLAIMER: The information contained in this communication (including any attachments) is for the sole use of the intended recipient. It may contain proprietary, confidential or legally privileged information which may be exempt from disclosure under applicable law. No confidentiality or privilege is waived or lost by any mistransmission. If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message.

--

Curt Stovall, P.E.
Environmental Protection Specialist
Solid Waste Permitting Unit
Solid Waste and Materials Management Program



COLORADO

Hazardous Materials
& Waste Management Division
Department of Public Health & Environment

P 303.692.2295 | F 303.759.5355
4300 Cherry Creek Drive South, Denver, Colorado 80246-1530
curtis.stovall@state.co.us | www.colorado.gov/cdphe/hm